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6 dba UKIAH AUTO DISMANTLERS and WAYNE HUNT

7
8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA
10

11 PINOLEVILLE POMO NATION,) Case No. C 07-02648 SI
12 PINOLEVILLE POMO NATION)
13 ENVIRONMENTAL ASSOCIATION and)
14 LEONA WILLIAMS,) DEFENDANTS U.S. ALCHEMY
15 Plaintiffs,) CORPORATION AND WAYNE HUNT'S
16) CASE MANAGEMENT STATEMENT
17 v.)
18)
19 UKIAH AUTO DISMANTLERS, WAYNE)
20 HUNT, ISABEL LEWRIGHT, WARRIOR)
21 INDUSTRIES, INC., RICHARD)
22 MAYFIELD, ROSS JUNIOR MAYFIELD,)
23 PAULA MAYFIELD, KENNETH HUNT,)
24 U.S. ALCHEMY CORPORATION and)
25 DOES 1-50, Inclusive,)
26)
27 Defendants.)
28)

29
30 This Case Management Conference Statement is filed upon behalf of U.S.
31 ALCHEMY CORPORATION, dba UKIAH AUTO DISMANTLERS and WAYNE HUNT
32 (hereinafter collectively "Defendants"). Defendants have met and conferred with Plaintiff,
33 but as of this late date have not come to an agreement on a Joint Case Management
34 Statement. However, the parties have met and conferred and have agreed upon some
35 issues.

1 **1. Description of Case.**

2 Plaintiffs filed this action on May 18, 2007 seeking civil penalties, restitution,
 3 remediation and damages for alleged violations of the Federal Water Pollution Control Act,
 4 33 U.S.C. § 1251, *et seq.* (the "Clean Water Act") and the Resource Conservation and
 5 Recovery Act, 42 U.S.C. § 6901, *et seq.* ("RCRA"). Plaintiffs also seek relief under the
 6 California Business and Professions Code for alleged Unfair Trade Practices and
 7 supplemental common counts for damages in tort.
 8

9 Plaintiffs are the Pinoleville Pomo Nation, the Pinoleville Pomo Nation
 10 Environmental Association, and Leona Williams, a member and officer of the other two
 11 plaintiffs. Pinoleville Pomo Nation asserts that it is a sovereign nation and Self-Governance
 12 Tribe in accordance with Title IV of Public Law 93-638 with authority to exercise
 13 jurisdiction within its boundaries on fee land and non-fee land. Pinoleville Pomo Nation
 14 Environmental Association is a citizens' group formed to protect Pomo Indian lands.
 15 Leona Williams is a U.S. citizen and a member of the Pinoleville Pomo Nation.
 16

17 Defendant Wayne Hunt owns land in the vicinity of land owned by Leona Williams.
 18 He is also the owner of a majority of the shares of U.S. Alchemy Corporation which
 19 conducts business on land owned by Wayne Hunt in the name of Ukiah Auto Dismantlers
 20 providing auto dismantling and wrecking services throughout Northern California.
 21

22 Plaintiffs assert five claims for relief: violation of the Clean Water Act for
 23 discharging non-storm water discharges; violation of Industrial Storm Water Regulations;
 24 violation of RCRA; and violation of the Unfair Trade Practices Act. Plaintiffs set forth the
 25 following causes of action: negligence *per se*; intentional violation of statutory duty;
 26 negligence; public and private nuisance; intentional public and private nuisance; damages
 27 for trespass; intentional infliction of emotional distress; and negligent infliction of
 28 emotional distress.

1 **I. Basis for Subject Matter Jurisdiction.**

2 Defendants agree that the case is properly before the United States District Court for
 3 the Northern District of California on federal question jurisdiction because Plaintiffs'
 4 Complaint alleges violations of federal statutes arising under federal law.
 5

6 **II. Brief Description of Case and Defenses.**

7 Defendants have not yet answered the Complaint but will do so by December 31.
 8 Primarily, Defendants contend that prior to filing this Complaint Defendants were in
 9 compliance with all required permits issued by the North Coast Water Quality Control
 10 Board. The Court denied Defendants' motion to dismiss for failure of the sixty day notices
 11 to provide sufficient information for Defendants to understand Plaintiffs' allegations or to
 12 correct such deficiencies identified therein.

13 Defendants deny liability.

14 **III. Legal Issues Genuinely In Dispute.**

15 The main liability issues are whether Defendants are discharging from a point
 16 source and whether they are in compliance with their General Permit. Also at issue is
 17 whether the site presents and imminent and substantial endangerment as those terms are
 18 used in RCRA. The main remedy issue is whether equitable relief is warranted, regardless
 19 of liability. Also at issue is whether equitable relief would interfere with the proper
 20 function of the Regional Water Quality Control Board and other regulatory agencies
 21 overseeing the property.

22 **IV. Procedural History of Matter.**

23 On May 18, 2007 Plaintiffs filed their Complaint. On July 31, 2007, Defendants filed
 24 a motion to dismiss which was denied by the Court on December 3, 2007.
 25

26 It is Defendants' understanding that Isabelle Lewright, the former wife of Wayne
 27 Hunt, and Kenneth Hunt will be dismissed as parties by Plaintiffs. Ukiah Auto
 28 Dismantlers was also improperly sued as a separate entity in that it is merely the firm name

1 and style by which U.S. Alchemy Corporation conducts its business. Plaintiffs have
 2 reported that they have reached agreement with Warrior Industries, Inc. and Richard
 3 Mayfield, but Defendants have no independent knowledge of such settlement. It is
 4 unknown whether Ross Mayfield, Jr. continues as a defendant in this action.

5 **V. Scope of Discovery to Date.**

6 No discovery has been conducted to date. The parties have discussed the initial
 7 disclosure requirements and have exchanged documents. Defendants further disclose
 8 persons they identify as persons likely to have discoverable information: Frederick Martin,
 9 defendants' consultant; Richard Azevedo, North Coast Regional Water Quality Control
 10 Board; Richard Mayfield, co-defendant and owner of property adjacent to Plaintiffs; the
 11 Custodian of Records of the U.S. Army Corps of Engineers; Ross Mayfield, Jr., former
 12 owner of adjoining property; Wayne Riley, Mendocino County Public Health Department;
 13 Nathan Rich; Keith Venrick; Wayne Hunt, principal, Ukiah Auto Dismantlers; Marcy
 14 Barry, Office Manager, Ukiah Auto Dismantlers.

15 Defendants propose that each party may propound fifty (50) interrogatories, ten (10)
 16 at a time; thirty (30) requests for admissions, ten (10) at a time; and ten (10) depositions
 17 collectively for Defendants. Defendants will agree to one (1) site inspection upon ten (10)
 18 days' notice, or as otherwise agreed.

19 Defendant plans to propound interrogatories, requests for admissions, requests for
 20 production of documents, and requests for entry upon the land of Plaintiffs. Defendants
 21 also intend to take depositions of Wayne Riley, Richard Azevedo, and third parties
 22 including government regulators and former consultants with percipient knowledge of the
 23 relevant sites.

24 **VII. Motions Intended to be Pursued Before Trial.**

25 Defendants intend to file a motion for summary judgment as to liability.
 26 Defendants do not expect evidentiary, claim-construction or class certification hearings.

1 **VIII. Relief Sought.**

2 Defendants seek dismissal of the Complaint.

3 **IX. Alternative Dispute Resolution Efforts.**

4 The parties have met and conferred concerning Alternative Dispute Resolution and
 5 have agreed to jointly contact the ADR Coordinator by January 1, 2008 to provide
 6 notification that they are agreeable to mediation. A referral to the ADR Coordinator for
 7 mediation is requested.

8 **X. Trial.**

9 Defendants agree to have this case transferred to a Magistrate Judge for all
 10 proceedings. Defendants request a jury trial.

11 **XI. Proposed Deadlines and Court Dates.**

12 Plaintiffs and Defendants have different views on the timing of deadlines and Court
 13 dates. Plaintiffs have indicated that they seek a trial date within six months. Defendants'
 14 proposed eighteen month schedule is as follows:

Last day to join parties and amend pleadings:	March 30, 2008
Non-Expert Discovery Cutoff:	September 15, 2008
Initial Expert Designation Report:	October 20, 2008
Rebuttal Expert Designation Report:	November 20, 2008
Discovery Cutoff:	December 2008
Last Day to File Dispositive Motions:	January 5, 2009
Last Day for Hearing on Dispositive Motions:	February 9, 2009
Pre-Trial Conference:	February 2009
Final Pre-Trial Conference:	March 2009
Trial:	March 2009

23 The parties estimate that the trial will last 5 to 10 days. Defendants request a jury
 24 trial on all appropriate issues and also expect to request a bifurcation of the trial into
 25 liability and penalty phases.

26 DATED: December 11, 2007



CHRISTOPHER J. NEARY
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 U.S. ALCHEMY CORPORATION dba UKIAH
 AUTO DISMANTLERS and WAYNE HUNT